

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Case No.: 24-CR-309-DHU
)	
vs.)	
)	
CISCO CRUZITO PINTO,)	
)	
Defendant.)	

MOTION FOR LAFLER/FRYE HEARING BEFORE
A UNITED STATES MAGISTRATE JUDGE

The United States respectfully moves this Court to order a hearing before a United States Magistrate Judge to inquire with defendant CISCO PINTO (hereinafter, “Defendant”), and his attorney Assistant Federal Public Defender Hadley Brown, whether defense counsel communicated to Defendant the plea offer extended by the United States in this matter. In support of this motion, the United States provides the following:

1. A criminal defendant has the right to effective assistance of counsel during pre-trial plea negotiations, including with respect to plea offers that lapse or the defendant rejects. *See Lafler v. Cooper*, 566 U.S. 156 (2012); *Missouri v. Frye*, 566 U.S. 134 (2012) (commonly collectively referred to as *Lafler/Frye*).
2. Plea discussion between the United States and the defense counsel commenced in July 2024. The United States extended a firm plea offer over email to defense counsel on July 22, 2024. The parties discussed the offer over email in the ensuing months. On March 13, 2025, the United States sent the same, previously extended offer in the form of a formal written plea offer over email to defense counsel. The plea acceptance deadline for the offer was March 21, 2025.

On March 21, 2025, defense counsel informed the United States over email that Defendant intended to reject the plea offer.

3. To protect against any future claim of ineffective assistance of counsel on this issue, the United States respectfully requests that the Court set a hearing at which a United States Magistrate Judge will inquire on the record whether defense counsel informed Defendant of the United States' plea offer and whether Defendant chose to reject this offer.

4. Further, the United States requests that the Court direct the United States Magistrate Judge to make the United States' plea offer a sealed exhibit at the hearing and verify that Defendant and defense counsel discussed the terms of the plea offer before rejecting the United States' proposed resolution.

5. The United States has conferred with defense counsel Hadley Brown, and she indicated that Defendant takes no position on the United States' request for a *Lafler/Frye* hearing in this matter.

Respectfully submitted,

HOLLAND KASTRIN
Acting United States Attorney

/s/ Electronically signed on March 24, 2025

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 24, 2025, I filed the foregoing document electronically through the CM/ECF system. Pursuant to the CM/ECF Administrative Procedures Manual, §§ 1(a), 7(b)(2), such filing is the equivalent of service on parties of record.

/s/ Electronically filed and submitted on March 24, 2025

MEG TOMLINSON

Assistant United States Attorney